

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

DESMOND ARTHUR ONEAL,
Plaintiff,

v.

WAL-MART, INC.,
Defendant.

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) C.A. No. 23-cv-483-JJM-PAS
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ORDER

Plaintiff Desmond O'Neal filed this suit pro se against Defendant Wal-Mart, Inc., alleging that Wal-Mart discriminated against him in violation of Title VII of the Civil Rights Act and the Americans with Disabilities Act (ADA). ECF No. 1. Wal-Mart moves to dismiss Mr. O'Neal's case pursuant to Federal Rule of Civil Procedure Rule 37(b)(2)(A)(v) for failure to comply with the Court's discovery orders and pursuant to Federal Rule of Civil Procedure Rule 41(b) for failure to prosecute. ECF No. 16.

Wal-Mart served its first sets of interrogatories and request for production of documents in May 2024. Mr. O'Neal provided some documents in the months following, but no formal discovery responses were served. Wal-Mart moved to compel, and the Court granted its motion, ordering Mr. O'Neal to properly respond. ECF No. 13; *See* Text Order, Dec. 18, 2024. Mr. O'Neal moved for additional time to comply, Wal-Mart did not object, and so he had an additional forty-five days to respond to Wal-Mart's discovery, setting the production deadline to February 24, 2025. Mr. O'Neal has not responded to the outstanding discovery to date.

When considering noncompliance with a discovery order, “the ordering court should consider the totality of events and then choose from the broad universe of available sanctions in an effort to fit the punishment to the severity and circumstances of the violation.” *Young v. Gordon*, 330 F.3d 76, 81 (1st Cir. 2003). The Court agrees that Mr. ONeal has failed to comply with its Order and is delinquent in responding to Wal-Mart’s discovery requests. Because Mr. ONeal is pro se, however, the Court finds that dismissal as a sanction is overly severe in these circumstances. Mr. ONeal has communicated with Wal-Mart via email, has attempted to comply with discovery requests, and indicates in his opposition that he intends to press his case. The circumstances here merit one more chance at compliance. Therefore, the Court denies Wal-Mart’s Motion to Dismiss at this time. ECF No. 16.

In light of Mr. ONeal’s failure to comply, however, the Court ORDERS him within 30 days of this Order to submit complete and full responses to Wal-Mart’s interrogatories and request for production set forth in Wal-Mart’s motion to compel discovery. ECF No. 13. Complete and full responses require that each interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath and – the person who makes the answers must sign them and documents submitted should encompass a full and accurate portrayal of the evidence being proffered. The Court will not grant any further extensions. If Mr. ONeal fails to respond to the interrogatories and/or fails to produce the requested documents within

30 days of this Order, the Court will dismiss this case under Federal Rule of Civil Procedure Rules 37(B)(2)(A)(v) and 41(b).

IT IS SO ORDERED.

s/John J. McConnell, Jr.

John J. McConnell, Jr.
Chief United States District Judge

July 2, 2025